

Message Text

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ACTION EB-11

INFO OCT-01 EUR-25 ADP-00 CAB-09 CIAE-00 COME-00 DODE-00

INR-09 NSAE-00 RSC-01 FAA-00 L-03 DOTE-00 SS-14 NSC-10

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P R 211546 Z MAR 73

FM AMEMBASSY BONN

TO SECSTATE WASHDC PRIORITY 4013

INFO AMEMBASSY THE HAGUE

AMEMBASSY LONDON

AMEMBASSY PARIS

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E. O. 11652: ADS MARCH 21, 1974

TAGS: ETRN, GW, XT

SUBJ: CIVAIR: MEMORANDUM OF UNDERSTANDING BETWEEN THE US

AND FRG ON ADVANCE CHARTERS (ABC AND TGC)

REF: A. STATE 46403; B. BONN 3663; C. STATE 51261

1. SUMMARY: THE FRG IS PREPARED, ALTHOUGH WITH SOME RESERVATIONS, TO DISCUSS AN MEMORANDUM OF UNDERSTANDING (MOU) ALONG THE LINES OF THE REFTEL A DRAFT. A FURTHER MEETING IS TO TAKE PLACE ON MARCH 23. ACTION REQUESTED: (A) THE DEPARTMENT'S COMMENTS ARE REQUESTED SOONEST ON POINTS STATED BELOW IN PARA 6 ON WHICH THE FRG ASKS FOR CLARIFICATION, AND (B) ANY FURTHER INSTRUCTIONS IF CONSIDERED NECESSARY.

2. THE DRAFT MOU WAS DELIVERED TO THE FRG AVIATION AUTHORITIES ON MARCH 14 WITH A REQUEST FOR AN EARLY DISCUSSION. ON MARCH 20, THE CAA WAS CALLED IN BY THE FEDERAL MINISTRY OF TRANSPORT (FMT) TO RECEIVE INITIAL FRG VIEWS. (THE DELAY IN THE FMT REACTION WAS DUE TO STAFF ABSENCES. PAAS AND STUKENBERG ARE AWAY FOR SEVERAL WEEKS.)

3. BEFORE GETTING TO THE SUBJECT OF THE MOU ITSELF, THE FMT

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(BARTKOWSKI) REITERATED THE FRG VIEWS EXPRESSED INFORMALLY ON MARCH 12 AND REPORTED IN REFTEL B. THE FRG AGAIN EXPRESSED ITS SURPRISE AT THE LATE DATE AT WHICH THE MOU HAD BEEN PROPOSED, AND THAT NO OBJECTION TO THE EARLY PUBLISHED FRG RULES ON ABC'S HAD BEEN MADE BY THE US, EXPECIALLY DURING THE US/ FRB CONSULTATIONS ON FEBRUARY 5 AND 6. SINCE US CARRIERS, BARTKOWSKI NOTED, OPERATED A MUCH LARGER SHARE OF THE US/ FRG CHARTER MARKET IN BOTH DIRECTIONS, UNIFORMITY UNDER ABC REGULATIONS WOULD ALSO BE IN THE INTEREST OF THE US CARRIERS, AND THE FRG HAS BEEN THINKING HERETOFORE ALONG THE LINES OF AN UNDERSTANDING FOR THE USE OF THE ABC'S INBOTH DIRECTIONS.

4. BARTKOWSKI ALSO OBSERVED THAT BETWEEN THE US AND FRG TERRITORIES, THE PROBLEM OF TGC'S AND ABC'S APPEARED TO THE FMT TO BE RATHER HYPOTHETICAL. NO CARRIER, INSOFAR AS THE FMT WAS AWARE, HAD YET FILED FOR TGC'S, BUT NUMEROUS FILINGS HAVE BEEN RECEIVED BY THE FMT BY WORLD AND CONDOR FOR ABCS OUT OF THE FRG, PLUS REQUESTS FOR WAIVERS TO PERMIT THE CO- MINGLING OF ABCS WITH AFFINITY CHARTERS. CARRIER REPRESENTATIVES HAVE INDICATED TO BARTKOWSKI THAT THE US MARKET IS NOT YET RESPONDING TO TGCS. THIS, HE FELT, UNDERLINES THE VALIDITY AND URGENCY OF AN ACCPETANCE OF THE ABC RULES, AS NUMEROUS GERMANS ARE APPARENTLY PLANNING TO USE ABCS TO SPEND A HOLIDAY IN THE US THIS SUMMER.

5. GIVEN THE PRESS OF TIME, HOWEVER, THE FRG WAS PREPARED TO DISCUSS WITH THE US THE GENERAL SUBSTANCE OF THE MOU IN DETAIL. AS TO FORM, BARTKOWSKI SUGGESTED AN EXCHANGE OF LETTERS BY AVIATION AUTHORITIES, BUT AN EXCHANGE OF NOTES WOULD ALSO BE ACCEPTABLE. THE FRG WOULD WISH TO RECORD ITS BASIC POSITION UNDER COVER OF THIS EXCHANGE, BUT NOT AS PART OF THE MOU.

6. EMBASSY CAA SUGGESTED THAT DISCUSSION OF THE DRAFT MOU BEGIN AS SOON AS POSSIBLE, SINCE IT APPEARED THAT THIS COULD BE ACCOMPLISHED IN BONN BETWEEN THE EMBASSY AND THE FMT, AND FRIDAY, MARCH 23 WAS AGREED FOR A NEXT MEETING. BARTKOWSKI SAID HE HOPED AT THAT TIME THE EMBASSY WOULD BE IN A POSITION TO CLARIFY THREE POINTS OF THE DRAFT MOU IN PARTICULAR:
(A) WITH REFERENCE TO PARA ROMAN I, SUB- PARA A (B) WHAT IS MEANT BY QUOTE TRAFFIC ORIGINATED OUTSIDE THE TERRITORY OF EITHER PARTY ... (OR A POINT OUTSIDE) UNQUOTE? WOULD THE REGULATION SUCH TRAFFIC FALL WITHIN THE LEGAL COMPETENCE OF THE US AND FRG? (B) WITH REFERENCE TO PARA ROMAN I, SUB- LIMITED OFFICIAL USE

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PARA B(2), WITH WHAT TYPES OF QUOTE GROUPS ORGANIZED IN ACCORDANCE WITH OTHER REGULATIONS UNQUOTE DOES THE US CONSIDER THE CO-MINGLING OF ABC/ TGC GROUPS WOULD TAKE PLACE? (E. G. AFFINITIES, IT'S, MILITARY.) (C) WITH REFERENCE TO PARA ROMAN I, SUB- PARA C, THE FMT QUESTIONS WHETHER THIS LANGUAGE IS SUFFICIENT TO REFLECT THE DIFFERENCE BETWEEN THE PRINCIPLES APPLIED BY THE CAB AND THE FRG IN ARRIVING AT MINIMUM CHARTER PRICES. (IN THIS CONNECTION SEE BONN 3869 ON RECENTLY PUBLISHED FRG MINIMUM ABC CHARTER PRICES.)

7. COMMENT: WHILE THE FMT CONTINUES TO REFER TO THE DIFFICULTIES IT HAS WITH RESPECT TO ITS LEGAL POSITION, WE DO NOT BELIEVE THE FRG WILL JEOPARDIZE THE APRIL 1 DATE FOR THE INTRODUCTION OF ADVANCE CHARTER RULES. HILLENBRAND

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